

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(i) FAO-6635-2019 (O&M)

Shri Ram General Insurance Company Ltd.

...Appellant

VERSUS

Pankaj Puri and others

...Respondents

(ii) FAO-6636-2019 (O&M)

Shri Ram General Insurance Company Ltd.

...Appellant

VERSUS

Pankaj Puri and others

...Respondents

Date of Decision: May 06, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.T.K.Joshi, Advocate
for the appellant.

Mr.Ashwani Chopra and Mr.Vipul Sharma, Advocates
for respondent No.1.

ARCHANA PURI, J.

These are two appeals filed at the instance of Shri Ram General Insurance Company Limited, insurer of the offending vehicle bearing registration No.HP-19C-8680, to assail two Awards dated 01.08.2019 passed by learned Motor Accident Claims Tribunal, on account of death of Des Raj Puri and his wife Kamla Devi, in a motor vehicular accident.

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Suffice to consider that the accident in question had taken place on 10.07.2017 and the vehicle involved in the accident was truck bearing registration No.HP-19C-8680, driven by respondent No.2-Sham Lal @ Shamu. Deceased Des Raj Puri as well as his wife Kamla Devi, were the occupants of ill-fated car bearing registration No.HP-78-1909 and they sustained injuries, which proved fatal and both of them died. Pankaj Puri had filed two claim petitions for seeking compensation, on account of death of his father as well as mother.

On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident in question to have taken place, on account of rash and negligent driving of the offending truck, driven by respondent No.2-Sham Lal @ Shamu and the same resulted into death of Des Raj Puri and Kamla Devi.

On the analysis of the evidence, it goes without saying that the deceased had retired from BSNL Department and as per the statement of account, proved by PW-3 Gaurav Kumar, Associate, State Bank of India, it was concluded that deceased was getting pension to the extent of Rs.23,048/- per month, which was rounded off as Rs.23,000/-. Considering the copy of Aadhaar Card of deceased Des Raj Puri Ex.C4, taking his birth of year as 1948, the deceased was assessed to be 69 years old, at the relevant time.

Considering the same, while making deduction to the extent of 1/3rd, on the count of 'personal and living expenses', the loss of dependency was worked upon as Rs.15,334/- (Rs.23000-7666), which was though rounded off as Rs.15,000/- per month by learned Tribunal and annual whereof, was

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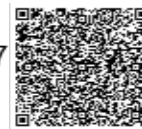
worked upon as Rs.1,80,000/-. Considering the age of the deceased as 69 years, multiplier of '5' was applied and the compensation was worked upon as Rs.9,00,000/-. Besides the same, the claimant was held entitled to Rs.15,000/- each towards 'funeral expenses' as well as 'loss of estate' and therefore, the total compensation was worked upon as Rs.9,30,000/-.

Likewise, qua death of Kamla Devi, considering the evidence, brought on record, more particularly, copy of Aadhaar Card Ex.C6, where the year of birth is mentioned as 1948, the age of deceased Kamla Devi was worked upon as 69 years and also, on the analysis of evidence, it stood established that the deceased had retired from Block Development and Panchayat Office, Amloh and her monthly pension was also proved to be Rs.12,000/- per month. Considering the same, 1/3rd was deducted, on the count of 'personal and living expenses' and the loss of dependency was worked upon as Rs.8000/- per month, annual whereof comes to be Rs.96,000/-. Considering the age of the deceased to be 69 years, multiplier of '5' was applied and the compensation was worked upon as Rs.4,80,000/-. Besides the same, amount of Rs.15,000/- each was awarded towards 'funeral expenses' as well as 'loss of estate' and therefore, the total compensation was worked upon as Rs.5,10,000/-.

However, being aggrieved with the entitlement of the claimant to seek compensation and quantum of compensation awarded, the insurer of the offending vehicle, has filed the respective appeals.

FAO-6635-2019 relates to death of Des Raj Puri and **FAO-6636-2019** relates to the death of Kamla Devi.

At the very outset, it is emphatically submitted by learned



counsel for the appellant-insurance company that learned Tribunal lost sight of the fact that claimant Pankaj Puri was not dependent upon both the deceased and there was no loss of dependency. As such, he was not entitled to any compensation. In this regard, much emphasis has been laid upon the age of Pankaj Puri, who has stated his age to be 37 years, at the time, when he stepped into witness box on 10.05.2019 as PW-2. Even, it is pin-pointed that in the cross-examination, he had submitted that he is doing business as Commission Agent at Mandi Gobindgarh and he is having wife and two children.

In the light of such evidence, brought on record, primarily, it is contended by learned counsel for the appellant that respondent No.1-Pankaj Puri, as such, is not entitled to any compensation for loss of dependency, as he was major and was doing business. He was financially affluent and therefore, he was not to be granted any compensation. Furthermore, it is submitted that the compensation awarded in itself is also on higher side, which needs to be scaled down.

To so substantiate his submissions, learned counsel for the appellant has placed reliance upon order passed by the Hon'ble Supreme Court in *SLP (Civil) No.7805 of 2002*, titled '*The New India Assurance Company Limited vs. Anand Pal & Ors.*'.

On the other hand, learned counsel for respondent No.1-claimant, in both the appeals, has refuted the claim of the insurance company. In fact, while making reference to the provisions of Section 166 of the Motor Vehicles Act, learned counsel has submitted that being major and also earning by itself, cannot be regarded as ineligibility for Pankaj Puri to



claim compensation, on account of death of his parents. To so substantiate his submissions, learned counsel has placed reliance upon *Babita Singh vs. New India Assurance Co. Ltd. and others, 2024 ACJ 223, National Insurance Co. Ltd. vs. Birender and others, 2020 ACJ 759* and *Seema Rani & Ors. vs. The Oriental Insurance Company Limited & Ors., 2025(2) RCR (Civil) 48*.

In view of the rival submissions, the principle issue, which arise for consideration is ‘whether the major son of deceased Des Raj Puri and Kamla Devi, who is married and gainfully employed or earning, can claim compensation under the Motor Vehicles Act, 1988.

At the very outset, necessary reference is required to be made to Section 166 of the Motor Vehicles Act, which provides for filing of an application for compensation by the persons mentioned clauses (a) to (d) of sub-section (1) thereof and reads as thus:-

166. Application for compensation. - (1) *An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made*

(a) by the person who has sustained the injury; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.



[Provided further that where a person accepts compensation under section 164 in accordance with the procedure provided under section 149, his claims petition before the Claims Tribunal shall lapse.]

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

*[***] [(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.]*

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under [section 159] as an application for compensation under this Act.]

[(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.]

As per the aforesaid provision of law, the legal representative of the deceased could move application for compensation by virtue of clause (c) of Section 166(1). The major married son, who is also earning and not fully dependent on the deceased, would still be covered by the expression 'legal representative' of the deceased.

The Hon'ble Supreme Court in ***Birender Singh's case (supra)*** had expounded that the major married and earning sons of the deceased, being legal representatives, have a right to apply for compensation and the Tribunal must consider the application, irrespective of whether the representatives are fully dependent upon the deceased or not. The Court

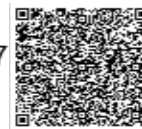


went to conclude that since the sons, in that case, were earning merely Rs.1,50,000/- per annum, they were largely dependent upon the earnings of the deceased and were staying with her.

No doubt, PW-2 Pankaj Puri, son of the deceased, while facing cross-examination has admitted himself to be working as Commission Agent at Mandi Gobindergarh and that he is having wife and two children, but however, solely, on account of his marital status and he being major son, he cannot be deprived of the status of 'legal representative' and does not debar him from seeking compensation, on account of death of his parents. The absence of dependency, as such, *ipso facto*, does not lead to denial of compensation.

Besides *Birender Singh's case (supra)*, beneficial reference is made to *Seema Rani's case (supra)*, wherein, the core question considered was about the eligibility of major, married and earning children of the deceased, to apply for compensation under the Motor Vehicles Act, 1988. The Hon'ble Supreme Court address this issue and held that the claimants, as such, cannot be excluded to be considered as dependents of the deceased. Even though, the nature of employment of the son was also taken into consideration, but, it was held that the two sons were residing with the deceased and therefore, it cannot be said that they were self-sufficient or independent of the deceased. Applying the same exposition in *Birender Singh's case (supra)*, furthermore, it was held that there is no reason to exclude a married daughter from compensation and thus, the compensation was worked upon thereafter.

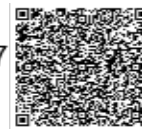
Even, beneficial reference is made to the decision rendered by this



Court in *FAO-308-2013*, titled '*New India Assurance Co. Ltd. vs. Kuldeep Singh and others*', wherein, the case of sons and daughters of the deceased, who were major, was under consideration and the insurance company had questioned the manner of assessment of the compensation determined, as though, they were dependents upon the deceased. In this regard, following observations were made, as herein given:-

2. *When the assessment is made on the basis of dependency, loss to estate which is one of the heads of claim becomes merely a conventional head of claim to be satisfied. On the other hand, when the sons or daughters who are majors themselves and who may not be dependents, the loss to estate could become considerable for the sons and daughters who are legal heirs to the father. If the deceased male would have earned and left an estate that could have been inherited by the children that should be quantified as amount payable. In this case since the deceased was 54 years and he would have earned for the rest of his productive life and made possible an accrual to an estate that could have fallen to the hands of the legal heirs, a complete rejection of claim is simply not possible. In this case, if the Court has assessed the income of the deceased at Rs.6200/-, I would assume such a person would have left behind an accrual not less than the amount which is already determined. Even if the claim cannot be sustained the loss of dependency, it could be justified as going towards loss to estate."*

Considering the aforesaid case law, respondent No.1-Pankaj Puri, being son of deceased Des Raj Puri as well as deceased Kamla Devi, as such, even though, being major and gainfully employed, is entitled to seek compensation, on account of death of his parents, who were receiving pension, at the time of their death.



Proceeding further, learned counsel for the appellant has also questioned the quantum of compensation. It is submitted that since the claimant Pankaj Puri was well settled, in his life and was financially affluent, therefore, deduction ought to have been made to the extent of 50%, instead of 1/3rd. In this regard, suffice to make reference to the *Babita Singh's case (supra)*, wherein, while granting compensation to the widow of the deceased, deduction was made to the extent of 50% from the loss of dependency, on the pretext that it was only the wife, who was the claimant, having no children. However, while considering the law laid down in *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, the analogy of deduction of 50% as that of bachelor was not accepted by the Hon'ble Supreme Court and the deduction was made, as held by Tribunal, to the extent of 1/3rd.

Following the same analogy, the deduction, in the present case, has to be made to the extent of 1/3rd.

Firstly, let us consider the compensation to be awarded qua death of Des Raj Puri. Deceased Des Raj Puri was 69 years old and he was getting pension of Rs.23,000/- per month. Making the deduction of 1/3rd, on the count of 'personal expenses', which comes to be Rs.7666/- and the residue earnings comes to be $\text{Rs.}23000 - 7666 = \text{Rs.}15,334/-$. Though, it was rounded off by learned Tribunal as Rs.15,000/-, but there is no reason, as such, to round off the same to Rs.15,000/- and the loss of dependency is taken as Rs.15,334/-, annual whereof is **Rs.1,84,008/-**. Considering the age of the deceased, '5' is the appropriate multiplier to be applied. Thus, by applying the same, the loss of dependency comes to be **Rs.184008x5=Rs.9,20,040/-**.



Besides the aforesaid, on the count of '**loss of consortium**', the claimants, is entitled to prevalent amount of Rs.48,400/- and he is also entitled to compensation, on the counts of '**loss of estate**' as well as '**funeral expenses**', which is **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to respondent No.1-claimant, on account of death of Des Raj Puri, is re-computed, as herein given:-

Loss of dependency	:	Rs.9,20,040/-
Loss of consortium	:	Rs.48,400/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.10,04,740/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.10,04,740-9,30,000=Rs.74,740/-**.

On the same analogy, considering the age of deceased Kamla Devi to be 69 years and her pension to be Rs.12,000/- per month, the compensation payable to respondent No.1-claimant, is re-computed, as herein given:-

Pension of deceased Kamla Devi	Rs.12,000/- per month
Deduction of 1/3rd as personal expenses	Rs.12,000-4,000=Rs.8,000/- per month, annual whereof, comes to be Rs.96,000/-
Multiplier of '5'	Rs.96,000x5= Rs.4,80,000/-
Loss of consortium	Rs.48,400/-
Loss of estate	Rs.18,150/-
Funeral expenses	Rs.18,150/-
Total	Rs.5,64,700/-

As such, the enhanced compensation, after the deduction of

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compensation awarded by the Tribunal comes to be **Rs.5,64,700-5,10,000=Rs.54,700/-**. On the enhanced amount of the compensation in both the cases, the respondent No.1-claimant shall also be entitled to the interest, at the rate of 6% per annum, from the date of filing of the appeals, till realization of the enhanced amount of compensation.

Accordingly, the impugned Awards dated 01.08.2019 stands modified, to the extent, as indicated aforesaid. The residue terms of the impugned Award, shall remain the same.

With the aforesaid modification, both the appeals stand dismissed.

May 06, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No